

BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF P.L. (SCOT) FERGUSON
BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
DOCKET NO. 2005-57-C
MAY 11, 2005

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COMM. DIV.

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
TELECOMMUNICATIONS, INC., AND YOUR BUSINESS ADDRESS.

A. My name is Scot Ferguson. I work for BellSouth Telecommunications, Inc.
("BellSouth") as Manager – Network Interconnection Operations. In this
position, I handle certain technical and policy issues related to local
interconnection matters, primarily operations support systems ("OSS"). My
business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from the University of Georgia in 1973, with a Bachelor of
Journalism degree. My professional career spans 31 years with Southern Bell,
AT&T, BellSouth Corporation and BellSouth Telecommunications. During that
time, I have held positions of increasing responsibility in sales and marketing,
customer system design, product management, training, public relations,
Competitive Local Exchange Carrier ("CLEC") support, and my current position
in Network Interconnection Operations.

1 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

2
3 A. The purpose of my Direct Testimony is to provide BellSouth's position on two (2)
4 unresolved arbitration issues related to Attachments 6 and 7 of the
5 Interconnection Agreement ("Agreement") with respect to the pending Section
6 252 arbitration proceeding between BellSouth and NewSouth Communications
7 Corporation and NuVox Communications, Inc. (together "NuVox/NewSouth"),
8 KMC Telecom V, Inc. ("KMC V") and KMC Telecom III, LLC ("KMC III")
9 (together, "KMC"), and Xspedius Communications, LLC, on behalf of its
10 operating subsidiaries, Xspedius Management Co. Switched Services, LLC
11 ("Xspedius Switched"), Xspedius Management Co. of Charleston, LLC
12 ("Xspedius Charleston"), Xspedius Management Co. of Columbia, LLC
13 ("Xspedius Columbia"), Xspedius Management Co. of Greenville, LLC
14 ("Xspedius Greenville"), and Xspedius Management Co. of Spartanburg
15 ("Xspedius Spartanburg") (together, "Xspedius") (collectively referred to as
16 "Joint Petitioners").

17
18 Specifically, I provide testimony for Item 86(b) (Issue 6-3(b)) – Alleged
19 Unauthorized Access to CSR Information, and Item 103 (Issue 7-9) – Termination
20 of Services for Nonpayment of Deposit.

21
22 Q. DO YOU HAVE ANY PRELIMINARY COMMENTS REGARDING THE
23 UNRESOLVED ISSUES IN THIS PROCEEDING?

1 A. Yes. The issues for which I provide testimony may or may not have underlying
2 legal arguments. Because I am not an attorney, I offer no legal opinions on the
3 issues. I offer testimony purely from an operations and policy perspective. If
4 these issues require any legal arguments, BellSouth's attorneys will provide them
5 in the appropriate briefs in this proceeding.

6
7 ***Item 86(b) (Issue 6-3(b)): How should disputes over alleged unauthorized access to***
8 ***CSR information be handled under the Agreement? (Attachment 6, Sections 2.5.6.2 &***
9 ***2.5.6.3)***

10
11 Q. WHY IS IT IMPORTANT FOR THE PARTIES TO HAVE THE RIGHT TO
12 SUSPEND ACCESS TO ORDERING SYSTEMS AND/OR TERMINATE
13 SERVICES BECAUSE OF UNAUTHORIZED ACCESS TO CSR
14 INFORMATION?

15
16 A. Customer Service Record (“CSR”) information contains Customer Proprietary
17 Network Information (“CPNI”). With its proposed reciprocal language,
18 BellSouth is attempting to insure that *both* Parties meet their legal and contractual
19 obligations to protect the CPNI that is contained in CSR information. Both
20 Parties have agreed to refrain from accessing CSR information without an
21 appropriate Letter of Authorization (“LOA”), and have agreed to access CSR
22 information only in strict compliance with the law. Given such obligations, it is
23 reasonable that if either Party suspects that the other Party is accessing CSR
24 information (and therefore is violating the law and its contractual obligations),
25 and the accused Party *fails to produce an LOA or fails to dispute the*

1 ***unauthorized CSR access allegations***, then the alleging Party should have the
2 ability to limit the other Party's access to CSR information. This right is
3 necessary to protect the CPNI maintained by the alleging Party. Without the right
4 to timely eliminate unauthorized access of CSR information, ***all*** Parties are
5 compromised in their collective ability to protect CPNI, which puts all end-user
6 customers at risk.

7
8 BellSouth recognizes that the suspension or termination of service is a serious
9 event. Thus, BellSouth's proposed language gives either Party a reasonable
10 opportunity to discontinue or cure unauthorized access to CSR information before
11 such suspension or termination by producing a Letter of Authorization ("LOA").
12 Specifically, under BellSouth's proposed language for Issue 86(B) a Party
13 accused of unauthorized access to CSR information has at least fourteen (14) days
14 to produced an appropriate LOA – an LOA that the accused Party has a legal and
15 contractual obligation to have in its possession – before any suspension or
16 termination action may be taken. The Joint Petitioners have offered no reason as
17 to why they would need more than two weeks to demonstrate compliance with the
18 law and the agreement. Again, it bears emphasizing that both Parties have
19 already agreed to have appropriate LOAs in hand *prior* to accessing CSR
20 information.

21
22 BellSouth does not recklessly suspend or terminate access to its services,¹ and
23 based on prior experience does not anticipate such a problem with these Joint
24 Petitioners. That said, it is critical that both Parties have the ability to protect

¹ To my knowledge, BellSouth has resorted to termination only once as a means to stop unauthorized access to CSR information.

1 themselves and their customers.

2
3 Q. SINCE THE ORIGINAL POSITION STATEMENTS WERE FILED IN THIS
4 PROCEEDING, HAS BELL SOUTH MODIFIED ITS PROPOSED LANGUAGE
5 IN AN EFFORT TO ELIMINATE THE JOINT PETITIONERS' CONCERNS
6 WITH THIS ITEM?

7
8 A. Yes. BellSouth continues to stand by the notification and suspension/termination
9 timeframes proposed in BellSouth's position statement on this item. However,
10 BellSouth modified its position during the February 2005 Georgia arbitration
11 proceeding to eliminate the Joint Petitioners' concerns.

12
13 Specifically, BellSouth revised its proposed language to state that if the accused
14 Party does not produce an appropriate LOA with seven (7) business, then the
15 alleging Party will notify the accused Party's *designated contact person by e-mail*
16 that access to ordering systems will be suspended or services terminated unless
17 the accused Party ceases or corrects the alleged unauthorized CSR access within 5
18 days. This modification was made to eliminate the Joint Petitioners' general
19 concern about a suspension/termination notice becoming "buried in the bowels"
20 of the accused Party and somehow overlooked.²

21
22 Further, in an effort of compromise, BellSouth modified its proposed language to
23 provide that if there is a dispute regarding the allegation of unauthorized CSR

² Of course the Joint Petitioners' concern about lack of notice overlooks the fact that the Parties have already agreed to use "best efforts" to produce an appropriate LOA upon request. The suspension/termination notice that the Joint Petitioners find objectionable follows an accused Party's failure to produce an appropriate LOA, despite its best efforts to do so.

1 access, *the alleging Party* – prior to any suspension of termination action – would
2 bring such dispute to the Commission for expedited resolution. Stated differently,
3 BellSouth’s proposed language incorporates the dispute resolution provisions set
4 forth in the General Terms & Conditions section of the Agreement. Under such
5 provisions, the Parties have already agreed that during the pendency of a dispute
6 that each Party will continue to perform its obligations under the Agreement.³
7 Resorting to the Agreement’s dispute resolution procedures if there is a dispute
8 over unauthorized access to CSR information should be acceptable to the Joint
9 Petitioners as it mirrors the Joint Petitioners’ position for this issue. In sum,
10 BellSouth’s concessions were designed to eliminate the Joint Petitioners’
11 concerns regarding “buried” notices or one-sided “pull-the-plug” provisions.
12

13 Q. DID THE JOINT PETITIONERS ACCEPT BELL SOUTH’S PROPOSAL TO
14 SETTLE THIS ITEM?
15

16 A. No. As of the filing of this testimony, the Joint Petitioners have failed to respond
17 in negotiations to BellSouth’s compromise proposal. Given BellSouth’s
18 movement on this issue to specifically address their concerns, BellSouth does not
19 understand why the Joint Petitioners continue to arbitrate Item 86(B).
20

21 ***Item 103; Issue 7-9: Should BellSouth be entitled to terminate service to CLEC***
22 ***pursuant to the process for termination due to non-payment if CLEC refuses to remit***
23 ***any deposit required by BellSouth within 30 calendar days? (Attachment 7, Section***

³ The dispute resolution provision contained in the agreement’s General Terms and Conditions section does not apply to billing disputes which are specifically addressed in Section 2 of Attachment 7 (which is not in dispute).

1 **1.8.6)**

2
3 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?
4

5 A. BellSouth should be permitted to terminate service to a CLEC if the CLEC
6 refuses to remit, or simply does not remit, within 30 days any deposit required by
7 BellSouth. Thirty calendar days is a reasonable time period within which a CLEC
8 should meet its fiscal responsibilities and satisfy a contractual obligation to
9 respond to an appropriate deposit demand.
10

11 Q. WHY IS BELL SOUTH JUSTIFIED IN TERMINATING A CLEC'S SERVICES
12 FOR NONPAYMENT OF A REQUESTED DEPOSIT?
13

14 A. First and foremost, there is no dispute that BellSouth has a right under the
15 Agreement to seek a deposit from the Joint Petitioners and that BellSouth will
16 determine the need and amount of any deposit based upon objective, independent,
17 and already agreed-upon deposit criteria. Thus, this issue deals with BellSouth's
18 rights when a Joint Petitioner disregards or otherwise ignores a deposit request by
19 BellSouth.
20

21 The purpose of the deposit is to help mitigate BellSouth's risk as it provides to
22 CLECs services worth millions of dollars every month. BellSouth incurs
23 financial loss when a CLEC exits the industry or is simply unable to pay its bills.
24 CLECs are valued customers; however, BellSouth has a responsibility to its
25 shareholders and to its other customers to not assume unnecessary business risks.

1
2 Continuing to provide service to a CLEC that fails to respond to a deposit demand
3 (or a request for an additional deposit) is such a risk. This is particularly true in
4 this arbitration proceeding where the Parties *have already agreed* to the specific
5 and objective deposit criteria regarding when BellSouth may demand a deposit (or
6 an additional deposit).
7

8 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

9
10 A. Yes.

11 #584986

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

CERTIFICATE OF SERVICE

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused the Direct Testimony of P. L. (Scot) Ferguson in Docket No. 2005-57-C to be served upon the following this May 11, 2005:

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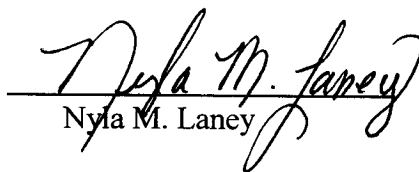
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